



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/322,792	05/28/99	SOULE	L 071288.0016

QM02/0301

MARK D GIARRATANA  
CUMMINGS & LOCKWOOD  
GRANITE SQUARE  
700 STATES STREET P O BOX 1960  
NEW HAVEN CT 06509-1960

EXAMINER

O HANLON, S

ART UNIT

PAPER NUMBER

3752

DATE MAILED:

03/01/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/322,792

Applicant(s)  
Soule et al

Examiner  
Sean O'Hanlon

Group Art Unit  
3752



☒ Responsive to communication(s) filed on 28 May 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-18 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3752

## **DETAILED ACTION**

### ***Priority***

1. Claim to priority (as a continuation-in-part application) based upon application 08/923,039 filed September 3, 1997, now patent 5,934,569, is acknowledged. The examiner has updated the reference in the specification to include the patent number.

### ***Information Disclosure Statement***

2. Applicants' information disclosure statement filed May 28, 1999, which listed the references cited by the examiner and the applicants in the parent application, has been considered and placed of record.

### ***Drawings***

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
4. See the notice of draftperson's drawing review, form PTO 948, included with this Office action.

### ***Specification***

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

Art Unit: 3752

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract as filed is too long.

6. The title of the invention is too long. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 6, 7-12, 14, 16, and 17 of U.S. Patent

Art Unit: 3752

No. 5,934,569. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of the instant claims are seen in the patent claims. The tapered surface of instant claims 5 and 18 has the same purpose as the bevel of patent claims 5 and 18.

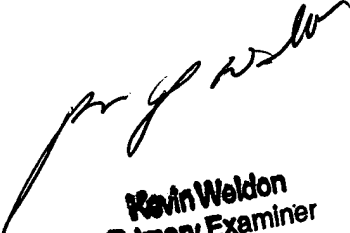
*Conclusion*

9. Any inquiry concerning this communication should be directed to Sean O'Hanlon whose telephone number is (703) 305-0056. The examiner can normally be reached Monday - Thursday from 6:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andres Kashnikow, can be reached on (703) 308-1137.

SPO

Sean P. O'Hanlon

February 24, 2000

  
Kevin Weldon  
Primary Examiner